

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ANTHEM, INC.,

Plaintiff,

v.

EXPRESS SCRIPTS, INC.,

Defendant.

Civil Action No. 16 Civ. 2048

Hon. Edgardo Ramos

FINAL JUDGMENT

On March 21, 2016, Plaintiff Anthem, Inc. (“Anthem”) commenced the above-captioned action by filing a Complaint (ECF No. 3), asserting five claims against Express Scripts, Inc. (“Express Scripts,” together with Anthem, “the Parties”). Express Scripts filed its Answer and Counterclaims on April 19, 2016 (ECF No. 18) and an Amended Answer and Counterclaims on June 13, 2016, asserting six claims against Anthem (ECF No. 33).

By Opinion and Order dated March 23, 2017 (ECF No. 49), the Court dismissed Counterclaims II and VI of Express Scripts’ Amended Answer and Counterclaims with prejudice.

By Opinion and Order dated March 31, 2022 (ECF No. 396) (the “March 31, 2022 Decision”), the Court (i) granted summary judgment dismissing Counts I and II of Anthem’s Complaint and in favor of Express Scripts on Count III of Express Scripts’ Amended Answer and Counterclaims, and (ii) granted in part and denied in part summary judgment dismissing Count III of Anthem’s Complaint.

Subject to certain reservations of rights reiterated below, the Parties previously stipulated to dismiss with prejudice Counts IV and V of Anthem’s Complaint, and Counts I, IV, and V of Express Scripts’ Amended Answer and Counterclaims. (ECF No. 347, 451.) On November 1, 2023, the Parties settled and stipulated to dismiss with prejudice Count III of Anthem’s Complaint, the only claim in the above-captioned proceeding that had not been disposed of by Court order or by stipulation. In

connection therewith, the Parties have jointly stipulated to entry of this Final Judgment to account for the disposition of each claim.

NOW, THEREFORE, it is hereby:

ORDERED AND ADJUDGED that judgment is entered in favor of Anthem and against Express Scripts on Counts II and VI of Express Scripts' Amended Answer and Counterclaims with prejudice pursuant to the Opinion and Order of this Court dated March 23, 2017 (ECF No. 49);

FURTHER ORDERED AND ADJUDGED that judgment is entered in favor of Express Scripts on Count III of Express Scripts' Amended Answer and Counterclaims and against Anthem on Counts I and II of Anthem's Complaint with prejudice pursuant to the March 31, 2022 Decision (ECF No. 396);

FURTHER ORDERED AND ADJUDGED that, pursuant to the above referenced stipulations of the parties, (i) Counts III, IV and V of Anthem's Complaint are dismissed with prejudice, and (ii) Counts I and IV of Express Scripts' Amended Answer and Counterclaims are dismissed without prejudice and Count V thereof is dismissed with prejudice (ECF No. 347, 451);

FURTHER ORDERED AND ADJUDGED that this judgment constitutes a final judgment as to all claims asserted in this action by Anthem against Express Scripts and by Express Scripts against Anthem, and the Parties shall pay their own respective attorneys' fees and costs;

FURTHER ORDERED AND ADJUDGED that this judgment is rendered subject, and without prejudice, to Anthem's right to appeal any and all orders of this Court with respect to Counts I and II of Anthem's Complaint, including, without limitation, this Court's March 31, 2022 Decision, and Count III of Express Scripts' Amended Answer and Counterclaims;

FURTHER ORDERED AND ADJUDGED that pursuant to this Court's March 14, 2023 Order (ECF No. 451), Express Scripts may reinstate Counts I and IV of its Amended Answer and

Counterclaims only if the Court's March 31, 2022 Decision is vacated or reversed on appeal.

SO ORDERED this 13th day of November, 2023.
New York, New York

A handwritten signature in blue ink, appearing to read 'Edgardo Ramos', is written above a horizontal line.

UNITED STATES DISTRICT JUDGE
HONORABLE EDGARDO RAMOS